

REMARKS

Assignee respectfully requests reconsideration and allowance in view of the foregoing amendment and the following remarks. Assignee amends claims 1, 3-4, 12, 21, 23-26 and 32 without prejudice or disclaimer. A number of claim amendments are made for clarity and not for the purpose of patentability. Accordingly, where claim amendments are not specifically discussed in the remarks below, they are made only for the purpose of clarification.

Rejection of Claims 1-4 and 7-11 Under 35 U.S.C. §101

The office action rejects claims 1-4 and 7-11 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Assignee has amended claim 1 to directly tie at least one limitation in the body of the claim to a processor. Specifically, claim 1 is amended to recite augmenting, via a processor, the higher level representation.... The last step is also amended to recite converting, via the processor, the higher level representation into a state-based representation. Accordingly, these claims comply with 35 U.S.C. §101.

Rejection of Claims 1-12 and 21-32 Under 35 U.S.C. §112

The Office Action rejects claims 1-12 and 21-32 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Assignee has amended claims 1 and 21 to move the “wherein” clause to recite wherein a name of at least one state transition in the augmented higher level representation includes a suffix associated with a special meaning. Assignee notes that this amendment to claims 1 and 21 addresses the issue identified on page 4 of the Office Action. Accordingly, these claims comply with 35 U.S.C. §112.

Rejection of Claims 1-3, 5, 7-8, 11-12, 21-23, 25, 27-28 and 31-32 Under 35 U.S.C.

§103(a)

The Office Action rejects claims 1-3, 5, 7-8, 11-12, 21-23, 25, 27-28 and 31-32 under 35 U.S.C. §103(a) as being unpatentable over Devine et al. (U.S. Publication No. 2003/0217190) (“Devine et al.”) in view of Mital et al. (U.S. Patent No. 7,184,967) (“Mital et al.”) and Karr et al. (U.S. Patent Publication No. 2003/0066051) (“Karr et al.”) and further in view of Sinai et al. (U.S. Patent No. 7,143,042) (“Sinai et al.”). Assignee traverses this rejection but submits an amendment to more easily distinguish the claims from Devine et al.

Specifically, claim 1 is amended to recite walking a call flow for a spoken dialog service and converting each page of the call flow into a rule of higher level of representation of the call flow having a syntax used to specify grammars of a programming language, wherein the higher level representation differs from an XML format. Support for this amendment is found in paragraphs [0020] and [0039] of the present specification. Assignee notes that this easily distinguishes from Devine et al. in which paragraph [0007] is cited throughout as having subject matter that matches each limitation of the claims. However, the Office Action primarily relies on paragraph [0007] in which Devine et al. state “the editor is the Microsoft visual editor which allows for a creative flow chart to be saved in an XML format.” Thus, by expressively reciting that the higher level representation differs from an XML format, Assignee submits that Devine et al. fail to disclose such a limitation. Therefore, Devine et al. is removed as a prior art reference inasmuch as its focus is on an XML format.

Assignee also does not acquiesce that it would be obvious to combine Devine et al., Mital et al. and/or Karr et al. in the manner proposed in the Office Action. For example, page 6 asserts that it would be obvious for one of ordinary skill in the art in the manner proposed in the Office Action. For example, page 6 asserts that it would be obvious for one of skill in the art to have

used a dynamically typed language such as Mat Lab to convert Devine et al.'s call flow and source code to yield the predictable result of dynamically typed variables. Although paragraph [0045] identifies the source code may be represented in any "suitable language", Assignee submits that this does not provide sufficient evidence that would assess that one of skill in the art would likely combine a Mat Lab representation with an XML representation. Blending a language like Mat Lab with an XML representation would clearly not be workable because of the different syntax involved.

Assignee also notes that paragraph [0044] of Devine et al. state that any particular intermediate language can do including "XML, UML, Adobe Postscript, proprietary Visio file format or any other suitable intermediate language." However, none of these languages have "a syntax specified by grammars of a programming language" as is recited in claim 1. Accordingly, none of the intermediate languages that are recited can be found to be the equivalent of the higher level representation as it is recited in claim 1.

Accordingly, claim 1 is patentable inasmuch as the references even if combined, fail to disclose each limitation of the claims and one of skill in the art would not likely combine these references. Indeed, Assignee traverses the conclusion that blending a language such as Mat Lab into the intermediate language disclosed in Devine et al. would not yield a "predictable result" that it would be workable. The analysis on page 6 of the Office Action in this respect is overly simplified and not persuasive.

Accordingly, claim 1 is patentable and in condition for allowance inasmuch as claims 2-12.

Claim 21 is also patentable for the same reasons set forth above as well as its dependent claims 22-32.

Rejection of Claims 4, 6, 9-10, 24, 26 and 29-30 Under 35 U.S.C. §103(a)

The Office Action rejects claims 4, 6, 9-10, 24, 26 and 29-30 under 35 U.S.C. §103(a) as being unpatentable over Devine et al. in view of Mital and Karr et al. and further in view of Sinai et al. and Wallace (U.S. Patent No. 4,686,623) ("Wallace").

Assignee traverses this rejection and submits that inasmuch as these claims depend from patentable parent claims, they are patentable and in condition for allowance as well.

Assignee does not acquiesce that it would be obvious for one of skill in the art to combine Wallace or Sinai et al. with Karr et al., Mital and/or Devine et al.

Assignee further notes that under a 35 U.S.C. §103 rejection, the issue is whether the subject matter as a whole would have been obvious "at the time the invention was made to a person having ordinary skill to which the subject matter pertains." Understanding that Sinai et al. and Mital can apply as 102(e) references, they each issued more than two years after the filing date of the application, April 16, 2004. Therefore, inasmuch as one of skill in the art on April 16, 2004 could not have known of these references, they cannot be applied in a §103 rejection with respect to what one of skill in the art would have gleaned from the available prior art at the time of the invention. Therefore, Assignee traverses the application of these references in a §103 rejection analysis. In this respect, MPEP 2142 requires the Office personnel to "reach a proper determination under 35 U.S.C. §103, the Examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made. In view of all factual information, the Examiner must make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person." (Emphasis added). Assignee respectfully inasmuch as Sinai et al. and

Mital could not possibly have been known to such a person of skill in the art, Assignee respectfully requests that they not be applied as prior art in the present case.

Assignee further reserves the right to further argue against the combination of references in later prosecution.

CONCLUSION

Having addressed all rejections and objections, the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

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